

United States Court of Appeals for the Federal Circuit

Order Establishing Appellate Mediation Pilot Program

Before MICHEL, Chief Judge, NEWMAN, MAYER, LOURIE, CLEVINGER, RADER, SCHALL, BRYSON, GAJARSA, LINN, DYK, and PROST, Circuit Judges.

PER CURIAM.

ORDER

It is ORDERED, by the court en banc,

(1) The court is establishing an appellate mediation pilot program that will be monitored by a three-judge committee appointed by the chief judge. The program will be administered by the Circuit Mediation Officer, who is a member of the Office of the Clerk and Circuit Executive. The program is set forth in the Appellate Mediation Pilot Program Guidelines, available from the clerk's office and the court's web site. The purpose of the program is to help the parties achieve settlement.

(2) The Circuit Mediation Officer will select cases for mediation and refer them to outside mediators. Participation in the pilot program is voluntary. The court will select mediators from a list compiled by the Federal Circuit Bar Association. The mediators will not be in active practice. The mediators will serve without compensation. The court will reimburse mediators for minor out-of-pocket expenses.

(3) Cases will be selected for mediation as early as possible in the appellate process and in no event after a case has been heard or submitted to a merits panel.

(4) The content of mediation discussions and proceedings is confidential as explained in the Appellate Mediation Pilot Program Guidelines. The Circuit Mediation

Officer will not communicate with the judges about the content of any particular mediation, but may discuss the overall effectiveness of the Appellate Mediation Pilot Program with the court. The outside mediators will protect the confidentiality of all proceedings and are prohibited from complying with subpoenas or other requests for information. The limited exceptions are that statistical data and other summary data may be disclosed by the Circuit Mediation Officer in connection with the court's evaluation of the Appellate Mediation Pilot Program, and there may be public disclosure by counsel or the parties if all counsel and parties involved in a particular mediation agree in writing and the mediator consents.

(5) If, following mediation in a case, settlement is reached, then the agreement must be in writing. The appellant or parties must file a motion to dismiss or other appropriate motion. If settlement is not achieved, then the case will proceed as if mediation had not been initiated.

(6) The effective date for the Appellate Mediation Pilot Program is October 3, 2005.

(7) The program may be altered, expanded, or discontinued at any time by direction of the court.

FOR THE COURT



Jan Horbaly
Clerk

AUG - 1 2005

Date

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

AUG - 1 2005

JAN HORBALY
CLERK